



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,723	08/22/2001	Martin Ebinger	510.1015	9142
23280	7590	05/09/2005	EXAMINER	
DAVIDSON, DAVIDSON & KAPPEL, LLC			CHEN, WENPENG	
485 SEVENTH AVENUE, 14TH FLOOR			ART UNIT	PAPER NUMBER
NEW YORK, NY 10018			2624	

DATE MAILED: 05/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/934,723

Applicant(s)

EBINGER, MARTIN

Examiner

Wenpeng Chen

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 1-35 and 37-46 is/are allowed.  
6) ☒ Claim(s) 36 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 08 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/10/2004.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

**Examiner's responses to Applicant's remark**

1. Applicant's amendments filed on 12/8/2004 overcome the followings set forth in paper #6:

- objection to Figs. 1-6;
- objection to specification;
- objection to Claims 1-46;
- rejection to Claims 1-46 under 35 U.S.C. 112, second paragraph.

***Specification***

2. The amendment filed on is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows.

The formula in section 0044 is changed as shown below. It is known in the art that SQRT represents "square root" operation. The amended formula is not a "square root" operation.

[0044] • The mean square deviation from scalar clamping errors  $F_i$  related to the expected value zero, the smallest possible error measure for a pair of corresponding spatial points

$$F = \frac{\text{SQRT}(\text{SUM}(1, n, G_{a_i} \cdot \text{length}(D_i) \cdot \text{length}(D_i) + G_{w_i} \cdot w_i \cdot w_i))}{\text{SUM}(1, n, (G_{a_i} + G_{w_i}))}$$

$$F = \frac{\sum_{i=1}^n (G_{a_i} \cdot \text{length}(D_i) \cdot \text{length}(D_i) + G_{w_i} \cdot w_i \cdot w_i)}{\sum_{i=1}^n (G_{a_i} + G_{w_i})}$$

where  $n$  is the number of pairs for which a clamping error  $F_i$  could be determined.

Art Unit: 2624

Applicant is required to cancel the new matter or change to reflect SQRT in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

3. Claim 36 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 36 recites the formula shown above in section [0044]. As explained above, it is new matter.

**Allowable Subject Matter**

4. Claims 1-35 and 37-46 are allowed.

A statement of reasons for the indication of allowable subject matter has been given in paper #6.

5. Claim 36 is not rejectable over the prior art.

The reason for this conclusion is that Claim 36 depends from allowable Claim 26.

### **Conclusion**

6. THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). The Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wenpeng Chen whose telephone number is 571-272-7431. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K Moore can be reached on 571-272-7437. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications. TC 2600's customer service number is 571-272-2600.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

Application/Control Number: 09/934,723  
Art Unit: 2624

Page 5

Wenpeng Chen  
Examiner  
Art Unit 2624

May 3, 2005

A handwritten signature in black ink, appearing to read "Wenpeng Chen", written in a cursive style.